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**)ALS No: 10134**

1. Complainant filed a Charge against Respondent with the Illinois Department of Human Rights (Department) on March 28, 1995.
2. On September 8, 1997, the Department filed a Complaint with the Illinois Human Rights Commission on Complainant's behalf alleging Complainant to have been aggrieved by practices of sexual harassment in violation of the Illinois Human Rights Act, (Act) 775 ILCS 5/101-1 et. seq.
3. Respondent filed its first *Motion to Dismiss the Complaint* on November 4, 1997.
4. This motion was denied by order on May 13, 1998.
5. Respondent filed an answer to the Complaint on June 24, 1998.
6. Status was held on July 15, 1998. Respondent appeared; Complainant did not appear. An order was entered setting a status for August 12, 1998. Complainant was warned that failure to appear at the August 12, 1998 status would result in a recommendation of dismissal.
7. On August 12, 1998, both Parties appeared. An order was entered setting a status for October 14, 1998 and indicating that if a motion for voluntary dismissal is filed prior to then, the status would be stricken.
8. On October 14, 1998, Respondent appeared; Complainant did not appear. No motion for voluntary dismissal had been filed. A status was set for January 13, 1999.
9. On January 13, 1999 Respondent appeared; Complainant did not appear. Status was set for March 10, 1999.
10. On March 10, 1999, Respondent appeared; Complainant did not appear. An order was entered setting a status on settlement for April 28, 1999.

11. On April 28, 1999 Respondent was available; Complainant was not available. An order was entered setting a status for July 28, 1999.
12. On July 28, 1999, Both Parties were available for telephone status hearing. A status was set for September 14, 1999.
13. An order was entered on September 15, 1999 setting the matter for status on December 14, 1999. That status was rescheduled to December 15, 1999. The record is silent as to what, if anything, happened on December 15, 1999.
14. On January 26, 2000, an order was entered setting a status for March 14, 2000. The order indicated that, during the December 15, 1999 status, the Parties agreed to stay this matter and noted that no motion to stay had been filed.
15. On March 3, 2000, the instant motion to dismiss was filed.
16. On March 21, 2000, an order was entered ordering the Complainant to file a response by April 14, 2000. The order warned that absence of a response would indicate that Complaint did not object to the motion. The order further indicated that a ruling would be issued by mail.
17. Complainant has not filed any response to the motion.
18. Respondent filed two bankruptcy petitions in United States Bankruptcy Court for the District of Delaware in March 1996, #96-411 and April 20, 1999, #99-941.
19. An *Order Confirming Third Amended Joint Plan of Reorganization* was entered on July 18, 1997.
20. The July 18, 1997 Order discharged all claims and enjoined all persons who may hold claims from continuing any action or other proceedings of any kind against the Respondent.
21. After filing the second bankruptcy petition in April 1999, Respondent sold virtually all of its assets and ceased business operations.

## **Discussion**

Respondent contends that, subsequent to the filing of this Complaint, Respondent filed two bankruptcy proceedings. The first proceeding, filed March 1996, resulted in Discovery Zone L.P. (Respondent) becoming part of Discovery Zone, Inc. and confirmation on July 18, 1997 of the *Third Amended Joint Plan of Reorganization*. The order confirming this Plan discharged all debts arising from events transpiring prior to that date and enjoined pursuit of debts or claims against the Reorganized Debtor. Respondent, citing *Miller and Brook Fashions, Inc.*, 1995 WL 853269 \_\_ Ill. HRC Rep. \_\_ (October 30, 1995) and *Turner and Clark Oil & Refining, Corp.*, 1993 WL 817946 \_\_ Ill. HRC Rep. \_\_ (November 22, 1993), contends that this order, in effect, bars continuation of this action as a matter of law.

Respondent further contends that a second petition for Bankruptcy was filed by Discovery Zone Inc. on April 20, 1999, which resulted in the liquidation of the company, and that Discovery Zone Inc. has ceased to exist, has sold virtually all of its assets, has closed all of its locations, has liquidated its business and has terminated all of its employees except for three remaining employees working temporarily to wind up affairs. Respondent argues that there are no assets from which any judgment could be enforced.

Respondent's argument is convincing and Complainant has submitted nothing to contradict Respondent's position. As the Commission has previously stated, "We will not search the record to find reasons to deny a motion. If a motion appears valid on its face, and if the other side cannot tell us why the motion should not be granted, we will grant the motion." *Jones and Burlington Northern Railroad*, 25 Ill. HRC Rep. 101 at 102 (1986).

### **Conclusions of Law**

Where the Bankruptcy Court *Order Confirming Third Amended Joint Plan of Reorganization* discharges Respondent from all claims arising from events transpiring prior to the July 18, 1997 effective date of the order and where the Respondent employer no longer conducts any business and continues to exist for the sole purpose of liquidating itself, to issue an order for any requested relief would be of no consequence.

### **Determination**

Respondent's motion to dismiss should be granted as it appears that the Bankruptcy Court order precludes any monetary relief and the Respondent has liquidated its assets and ceased operations precluding any other relief requested in the Complaint.

### **Recommendation**

It is, therefore, recommended that the Complaint be dismissed with prejudice.

### **HUMAN RIGHTS COMMISSION**

By: \_\_\_\_\_  
**SABRINA M. PATCH**  
**Administrative Law Judge**  
**Administrative Law Section**

**ENTERED: November 28, 2001**